

# **EXHIBIT 16**

## AMERICAN ARBITRATION ASSOCIATION

MISSION WELLNESS PHARMACY,

Claimant,

v.

CAREMARK, LLC, CAREMARK PCS, LLC,  
AND SILVERSCRIPT INSURANCE  
COMPANY

Respondent.

AAA CASE NO.: 01-19-0000-3552

Arbitrator: Charles Pereyra-Suarez, Esq.

Final Hearing: 2/7/22 – 2/11/22

## CLAIMANT'S EXHIBIT LIST

Claimant Mission Wellness Pharmacy (“Claimant”) submits the following Exhibit List for the Final Hearing.

## I. Pleadings and Discovery [Legal Documents]

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C200		Claimant's First Request for Production of Documents	5.30.19	
	C201		Respondents' Response to Submissions Regarding Documents Produced in Prior Arbitrations and Attorney Fees	5.11.20	
	C202		Respondent's Responses and Objections to Claimant's First Request for Production of Documents	7.15.19	
	C203		Respondents' Responses and Objections to Claimant's Second Request for Production of Documents	11.11.19	
	C204		LEFT BLANK INTENTIONALLY		
	C205		LEFT BLANK INTENTIONALLY		

	C206		LEFT BLANK INTENTIONALLY		
	C207		LEFT BLANK INTENTIONALLY		
	C208		LEFT BLANK INTENTIONALLY		

## II. Legal Authorities and Subpoenas

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C209		Order Compelling Discovery	1.24.20	
	C210		Order for Discovery Sanctions and Interim Relief	8.14.20	
	C211		Order on Claimant's Second Motion for Sanctions	11.6.20	
	C212		Order on Claimant's Renewed Second Motion for Sanctions	6.17.21	
	C213		42 C.F.R. 423.505(b)(18) – Contract Provisions		McCall Dep. Exh. 102
	C214		CMS publication re DIR Impact	1.19.17	
	C215		CMS - Medicare Part C and D Star Ratings Technical Notes	10.10.19	
	C216		Final 2019 DIR Reporting Requirements Memo	4.23.20	
	C217	C05342-5346	Final Order in Senderra v. Caremark AAA Case Number 01-18-0000-7001	7.23.19	
	C218	C05337-5341	Interim Order in Senderra v. Caremark AAA Case Number 01-18-0000-7001	5.17.19	
	C219	C05332-5336	Order and Judgment in Senderra Rx Partners, LLC v. CVS Health Corporation et al, CV-19-05816	6.17.20	
	C220		Subpoena Duces Tecum and Ad Testificandum to CVS Specialty Pharmacy	1.26.22	

	C221		Subpoena Duces Tecum and Ad Testificandum to Gilead Sciences, Inc.	1.26.22	
	C222		Subpoena Duces Tecum and Ad Testificandum to University of California, San Francisco Medical Center	1.26.22	
	C223		Subpoena Duces Tecum and Ad Testificandum to Wellpartner, LLC	1.26.22	
	C224		LEFT BLANK INTENTIONALLY		

### III. Contract Documents between Claimant and Respondents

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C225	CMK_MSN_0004 283-4286	Caremark's Timeline Reconciliation and Reporting Bulletin	6.21.16	
	C226	CMK_MSN_0007 397-7398	Caremark's 2018 Medicare Part D Performance Network Program Bulletin	9.1.17	
	C227	CMK_MSN_0007 424-7431	2018 Medicare Part D Specialty Drug Reimbursement Addendum to 2018 Medicare Part D Retail PNP	12.8.17	
	C228	CMK_MSN_0007 447-7448	2018 Medicare Part D PNP Specialty Drug Information	12.8.17	
	C229	CMK_MSN_0007 405-7407	2018 CVS Caremark Medicare Part D Performance Network Program Specialty Adherence Measure: List of Drugs Comprising the Therapeutic Classes		
	C230	CMK_MSN_0009 189-9191	2019 CVS Caremark Medicare Part D Performance Network Program Specialty Adherence Measure: List of Drugs Comprising the Therapeutic Classes		

	C231	CMK_MSN_0009 950-9952	2020 CVS Caremark Medicare Part D Performance Network Program Specialty Adherence Measure: List of Drugs Comprising the Therapeutic Classes		
	C232		2021 CVS Caremark Medicare Part D Performance Network Program Specialty Adherence Measure: List of Drugs Comprising the Therapeutic Classes		
	C233	CMK_MSN_0010 145-10222	Caremark's Specialty Drug Universe List Trimester 1 2018		
	C234	CMK_MSN_0010 401-10482	Caremark's Specialty Drug Universe List Trimester 2 2018		
	C235	CMK_MSN_0010 568-10651	Caremark's Specialty Drug Universe List Trimester 3 2018		
	C236	CMK_MSN_0010 223-10309	Caremark's Specialty Drug Universe List Trimester 1 2019		
	C237	CMK_MSN_0010 483-10567	Caremark's Specialty Drug Universe List Trimester 2 2019		
	C238	CMK_MSN_0009 404-9488	Caremark's Specialty Drug Universe List Trimester 3 2019		
	C239	CMK_MSN_0010 310-10400	Caremark's Specialty Drug Universe List Trimester 1 2020		
	C240		Caremark's Specialty Drug Universe List Trimester 2 2020		Swanson Dep. Exh. 119
	C241		Caremark's Specialty Drug Universe List Trimester 3 2020		
	C242		Caremark's Specialty Drug Universe List Trimester 1 2021		
	C243		Caremark's Specialty Drug Universe List Trimester 2 2021		

	C244		Caremark's Specialty Drug Universe List Trimester 3 2021		
	C245		LEFT BLANK INTENTIONALLY		
	C246		LEFT BLANK INTENTIONALLY		
	C247		LEFT BLANK INTENTIONALLY		

#### IV. Contract Documents among Respondents

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C248	CMK_MSN_000 7629-7639	Contract with Approved Entity Pursuant to Sections 1860D-1 Through 1860D-43 of the Social Security Act for the Operation of a Voluntary Medicare Prescription Drug Plan between <u>CMS and SilverScript Insurance Company</u>	9.18.17	
	C249	CMK_MSN_000 1023	SilverScript- Plan Sponsor View Point Attachment		
	C250	CMK_MSN_000 7640-7654	Addendum to Contract For The Operation of A Voluntary Medicare Prescription Drug Plan between <u>SilverScript Insurance Co. and CMS</u>	9.18.17	
	C251	CMK_MSN_000 7524-7538	Caremark/SilverScript Contract for MTM	9.21.16	
	C252		LEFT BLANK INTENTIONALLY		
	C253		LEFT BLANK INTENTIONALLY		
	C254		LEFT BLANK INTENTIONALLY		
	C255		LEFT BLANK INTENTIONALLY		
	C256		LEFT BLANK INTENTIONALLY		

#### V. Depositions, Transcripts and Exhibits for All Witnesses

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C257	C04939-5212	Deposition Transcript for Gina Redner in Senderra v. Caremark #1	1.31.19	
	C258	C05213-5331	Deposition Transcript for Todd Meek in Senderra v. Caremark #1	1.31.19	
	C259		Terri Swanson's CVS-Aetna Hearing Testimony	6.5.19	
	C260		Deposition Transcript of Steven McCall	3.18.21	
	C261		Exhibits to Steven McCall's Deposition		<p>a. Exh. 1 – Claimant's Corporate Representative Deposition Notice to Respondents</p> <p>b. Exh. 30 - 2020 Performance Network Program – Trimester Report T1</p> <p>c. Exh. 31 - 2020 Performance Network Program – Trimester Report T2</p> <p>d. Exh. 44 – 1.1.13 Prescription Benefit Service Agreement between <u>Caremark</u> and <u>SilverScript</u> Insurance Company</p>

					e. Exh. 82 – 9.20.11 Medicare Prescription Drug Benefit Manual – Chapter 5 Section 50.3 – Limited Access Drugs and “Specialty ” Pharmacies
					f. Exh. 86 – 1.1.16 Amendment No. 4 to Prescription Benefit Services Agreement for Medicare Part D between SilverScrip Insurance Co. and Caremark
					g. Exh. 122 - 2020 Performance Network Program – Trimester Report T3
	C262		Deposition Transcript of Terri Swanson	3.22.21	
	C263		Exhibits to Terri Swanson		a. Exh. 124 – 1.1.20 Amendment No. 14 to Prescription Benefit Services Agreement for Medicare

					Part D between SilverScri pt Insurance Co. and Caremark
					b. Exh. 126 – Contract with Approved Entity Pursuant to Sections 1860D-1 Through 1860D-43 of the Social Security Act for the Operation of a Voluntary Medicare Prescripti on Drug Plan between <u>CMS and</u> <u>SilverScri</u> <u>pt</u> <u>Insurance</u> <u>Company</u>
					c. Exh. 129 – 5.14.19 Aetna Internal Email from Terri Swanson to George Alatzas and Jean Walker RE Question from Eva
					d. Exh. 131 – 1.1.16 Amendme nt No. 4 to Prescripti on Benefit

					Services Agreement for Medicare Part D between SilverScript Insurance Co. and Caremark
					e. Exh. 133 - Amendment No. 12 to Prescription Benefit Services Agreement for Medicare Part D between SilverScript Insurance Co. and Caremark
					f. Exh. 134 – 7.3.19 Aetna Internal Email between Nicole Murowsky and Terri Swanson RE SSI Bid/MTM
	C264		Deposition Transcript of Stephen Kaczmarek	10.26.21	
	C265		Exhibits to Stephen Kaczmarek		a. Exh. 15 - 2020 Performance Network Program – Trimester Report T3
	C266		Deposition Transcript of Terri Swanson	12.9.21	
	C267		Deposition Transcript of Steven McCall	11.30.21	

	C268		LEFT BLANK INTENTIONALLY		
	C269		LEFT BLANK INTENTIONALLY		
	C270		LEFT BLANK INTENTIONALLY		
	C271		LEFT BLANK INTENTIONALLY		
	C272		LEFT BLANK INTENTIONALLY		

## VI. Emails

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C273	CMK_MSN_000 1078-1079	Attachment to Email chain with Rebecca Justice (Caremark) questions re excluded pharmacies	4.6.16	
	C274	CMK_MSN_000 0091-95	Caremark's internal email chain from Nancy Christal to Neil, Mitch, Allison, John Lavin, Alan Lotvin, Michael McGuire, Rebecca Justice, et al re Impact of DIR fees on Specialty Pharmacies	11.3.16	
	C275	CMK_MSN_000 0026-27	Caremark's email chain from Mitch Betses to Nancy Christal cc: David Denton, Eva Boratto and Michael McGuire in response to Eric Percher from Barclays email, re SSI DIR questions	11.3.16	
	C276	CMK_MSN_000 0097-99	Caremark's internal email chain from David S Azzolina to Mitch Betses & Rebecca Justice re draft CVS earnings call transcript on DIR fees	2.8.17	
	C277	CMK_MSN_000 4914-4917	Caremark's internal email chain from Mitch Betses to John Levin, David Azzolina, Kristi Meyer, Chris Bos, Kimberly McDonnell, Todd Meek & Rebecca Justice re	6.9.17	

			percentage of independent pharmacy providers in network		
	C278	CMKMSN_000 1093-1097	Caremark's internal email chain from Richard Conway to Stephen Taubel, Tony Cheng, Gina McKee, Brian Correa, Rebecca Justice, Alisha Nolan & Neil Lund re excluded pharmacies	6.28.17	
	C279	CMKMSN_000 0008-09	Caremark internal email thread between Rebecca Justice, Christine Gaudette & Daniel Zablocki, re Network Guarantee Payment	6.26.17	
	C280	CMKMSN_000 6126-6135	Caremark Internal Email chain from Christine Gaudette to Rebecca Justice, Tony Cheng, and Alisha Nolan re: 2016 PNR SSI Calculation	7.13.16	
	C281	CMKMSN_000 0417	Caremark Email from Kimberly McDonnell to Wendy Krasner at PCMA re: CMS inquiry into DIR	1.29.16	
	C282	CMKMSN_000 0066-69	Caremark Email From David Azzolina to Cheri Rice at CMS re: DIR Fees	8.3.16	McCall Dep. Exh. 73
	C283	CMKMSN_000 0959-0961	Caremark Internal Email from Mitch Betses to David Azzolina; Rebecca Justice re earnings speech	2.5.17	
	C284	CMKMSN_000 0320-321	Email from Cheri Rice (CMS) to David Azzolina (Caremark) re DIR fees	7.26.16	
	C285	CMKMSN_000 5496	Caremark's internal email chain from Sarah Doyle to Harry, Troy, Rebecca Justice & Gina McKee re Amendment to SSIC Intercompany Agreement Networks and 340B	4.29.16	
	C286		LEFT BLANK INTENTIONALLY		
	C287	CMKMSN_001 1352-1364	Attachment to Email Chain re: Specialty Deck		

			-Caremark Specialty Considerations Powerpoint		
	C288	CMK_MSN_001 1038-1053	Attachment to Email Chain re: PNP Specialty Strategy 2017 2018 DRAFT 01 17 2017dh.ppt	1.17.17	
	C289	CMK_MSN_000 0981-984	CVS Internal Email from Eva Boratto to Rebecca Justice, Mitch Betses, David Azzolina and Daniel Davison re: Earnings Script on DIR Network Fees	2.5.17	
	C290	CMK_MSN_000 1709-1711	CVS Internal Email from John Lavin to Allison Brown, Neil Lund, and Luciana Ciotinga re: Privileged and Confidential Meeting – PSAO response to preferred request	3.6.17	
	C291	CMK_MSN_001 1295-1297	CVS Internal Email from Rhonda Norton to David Hutchins re: PNP Specialty Drugs – 10/10/17 V2	10.10.17	
	C292	CMK_MSN_001 1246-1253	CVS Internal Email from Rhonda Norton to David Hutchins re: Specialty Universe Precheck	6.15.18	
	C293	CMK_MSN_001 1203-1210	CVS Internal Email from Rhonda Norton to David Hutchins re: Specialty Universe Precheck	6.18.18	
	C294	CMK_MSN_001 1310-1314	CVS Internal Email from David Hutchins to Rhonda Norton re: Specialty Universe Precheck Client List	10.11.18	
	C295	C03438	Email from Daniel Andrzejek (MW) to mdavidson@prescribewellness.com	8.11.16	
	C296	C03447	Email from Kathy Appuhn (MW) to Daniel Andrzejek (MW) re DIR fees Jan and Feb 2019	3.11.19	

	C297	CMK_MSN_000 0778-818	CVSHealth Star Ratings Update	10.2015	
	C298	CMK_MSN_000 1426	CVS Internal Email between Rebecca Justice and Brian Correia RE Pharmacy Classification	11.3.16	
	C299		LEFT BLANK INTENTIONALLY		
	C300	CMK_MSN_001 1028	CVS Internal Email from Michael Murphy to Brian Correia, William Wellman and Scott Luther RE Specialty Drug Summary 101 Products - Specialty drugs for Heartburn	3.1.17	
	C301	CMK_MSN_001 1029	Specialty Drug Summary 101 Products - Specialty drugs for Heartburn (Spreadsheet)		
	C302	CMK_MSN_001 0918 -19	CVS Internal email from Gina McKee to Brian Correia, Michael Murphy, and John Lavin RE: List for Allison	3.17.17	
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	C304		LEFT BLANK INTENTIONALLY		
	C305		LEFT BLANK INTENTIONALLY		
	C306		LEFT BLANK INTENTIONALLY		
	C307		LEFT BLANK INTENTIONALLY		

## VII. Illustrations

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C308		Caremark's DIR Fees Assessed on Mission Wellness' 340B Claims		
	C309		Caremark's DIR Fees Assessed on Mission Wellness, Total - All Claims		
	C310		Stakeholder Diagram		

	C311		Caremark Medicare Part D 2016 Overall Profitability Chart		
	C312		Caremark Medicare Part D 2017 Overall Profitability Chart		
	C313		Caremark Medicare Part D 2018 Overall Profitability Chart		
	C314		Caremark Medicare Part D 2019 Overall Profitability Chart		
	C315		Caremark Medicare Part D 2020 Overall Profitability Chart		
	C316		Caremark Medicare Part D 2021 Overall Profitability Chart		
	C317		Mission Wellness Video 1- Pharmacy Tour <a href="https://youtu.be/OX02nOLh_nl">https://youtu.be/OX02nOLh_nl</a>		
	C318		Mission Wellness Video 2 – Pharmacy Tour <a href="https://youtu.be/h8O3Hz_zXHAU">https://youtu.be/h8O3Hz_zXHAU</a>		
	C319		Mission Wellness Video 3 – Patient Journey <a href="https://youtu.be/Yc6wPLdirj8">https://youtu.be/Yc6wPLdirj8</a>		
	C320		Mission Wellness Photograph		
	C321		LEFT BLANK INTENTIONALLY		
	C322		LEFT BLANK INTENTIONALLY		

### VIII. Mission Wellness Pharmacy Spreadsheets

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C323	C04550	Mission Wellness 2016 P&L		
	C324	C04551	Mission Wellness 2017 P&L		

	C325	C04552	Mission Wellness 2018 P&L		
	C326	C05347	Mission Wellness 2019.01-06 P&L		
	C327	C05348	Mission Wellness 2019.07-12 P&L		
	C328	C05349	Mission Wellness 2020.01-06 P&L		
	C329	C05350	Mission Wellness 2020.07-12 P&L		
	C330		Caremark Actually Measured only 1% of Mission Wellness Medicare Part D Claims, By Revenue (2016-2020) (Corrected)		
	C331	C05393	Mission Wellness 2021 P&L		
	C332		LEFT BLANK INTENTIONALLY		
	C333		LEFT BLANK INTENTIONALLY		
	C334		LEFT BLANK INTENTIONALLY		
	C335		LEFT BLANK INTENTIONALLY		
	C336		LEFT BLANK INTENTIONALLY		

## IX. Caremark Spreadsheets

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C337	CMK_MSN_002 2398	Claims Spreadsheet 2016-2021		
	C338	CMK_MSN_000 2978	DIR Fee Reporting Spreadsheet (Blank)		
	C339	CMK_MSN_001 5938	PQS Spreadsheet		
	C340		LEFT BLANK INTENTIONALLY		
	C341		LEFT BLANK INTENTIONALLY		
	C342		LEFT BLANK INTENTIONALLY		
	C343		LEFT BLANK INTENTIONALLY		

	C344		LEFT BLANK INTENTIONALLY		
	C345		LEFT BLANK INTENTIONALLY		
	C346		LEFT BLANK INTENTIONALLY		

#### X. Miscellaneous Documents

<u>ADMITTED Y/N</u>	<u>EXHIBIT #</u>	<u>BATES RANGE</u>	<u>DESCRIPTION</u>	<u>DATE</u>	<u>DEPOSITION EXHIBIT #</u>
	C347	CMK_MSN_001 8836-849	Remittance Advice	1.16.19	
	C348	CMK_MSN_001 8903-921	Remittance Advice	2.13.19	
	C349	CMK_MSN_001 9428-449	Remittance Advice	8.14.19	
	C350	CMK_MSN_002 2077-099	Remittance Advice	12.29.21	
	C351		CHART – Top 15 Specialty Pharmacies- DCI-2020		
	C352		<b>EXHIBIT WITHDRAWN</b>		
	C353		Actuarial Standards Board – Actuarial Standard of Practice No. 23	12.2016	
	C354		Ge Bai's Expert Report	1.25.22	
	C355		Ge Bai's CV		
	C356		Laura Coe's Expert Report	12.28.21	
	C357		Coe's Work Papers – Trimester Report Summary (Spreadsheet)	12.28.21	
	C358		Coe's Work Papers – Financial Summary		
	C359		Deposition Excerpt of Gina Redner	1.31.19	
	C360		Deposition Excerpt of Todd Meek	1.31.19	
	C361		Deposition Excerpt of Steven McCall	3.18.21	
	C362		Deposition Excerpt of Steven McCall	11.30.21	
	C363		Deposition Excerpt of Terri Swanson	3.22.21	

	C364		Deposition Excerpt of Terri Swanson	12.9.21	
	C365		Maria Lopez Resume 2021		
	C366		Society of Actuaries – Risk Scoring in Health Insurance: A Primer	07.2016	
	C367	C05391-92	EQUIPP		
	C368	C05351-90	WellPartner Contract and Amendments	10.8.13	
	C369	C02910-C03389	Elevate Provider Network Remittance Advise for 7.1.18 to 12.31.18		
	C370	C02502-C02909	Elevate Provider Network Remittance Advise for 1.1.18 to 6.30.18		
	C371	C00766-C01566	Elevate Provider Network Remittance Advise for 1.1.17 to 12.31.17		
	C372	CMK_MSN_002 2417-2432	Amendment to NEF Medicare Part D 340B Network (AEO)	1.14.16	
	C373	CMK_MSN_002 2433-2449	Amendment to NEF Medicare Part D 340B Network (AEO)	1.14.16	
	C374	CMK_MSN_002 2450-54	NEF Med D 340B Between CVS Specialty and Caremark (AEO)	1.14.16	
	C375	CMK_MSN_002 2455-69	Amendment to NEF Med D 340B (AEO)	1.1.21	
	C376	CMK_MSN_002 2401-16	Amendment to NEF Med D 340B (AEO)	4.1.21	
	C377		Map of Pharmacies		
	C378		LEFT BLANK INTENTIONALLY		
	C379		LEFT BLANK INTENTIONALLY		
	C380		LEFT BLANK INTENTIONALLY		
	C381		LEFT BLANK INTENTIONALLY		